

EAG:CMM
F.#2012R01619

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

13 MISC 312

- - - - - X
IN THE MATTER OF AN APPLICATION :
OF THE UNITED STATES OF AMERICA : APPLICATION
FOR AN ORDER AUTHORIZING THE RELEASE :
OF HISTORICAL CELL-SITE INFORMATION :
- - - - - X

CATHERINE M. MIRABILE, an Assistant United States Attorney for the Eastern District of New York, hereby applies to the Court for Orders pursuant to 18 U.S.C. § 2703(c)(1) and (d), directing that within seven days Metro PCS (the "service provider") disclose recorded information identifying the base station towers and sectors that received transmissions from 347-666-8140, a telephone issued by the service provider and used by an individual named Darryl Allen (the "SUBJECT TELEPHONE"), at the beginning and the end of calls or text message transmissions, and the mobile switching center serving the SUBJECT TELEPHONE during any calls or text message transmissions, for the periods from May 17-19, 2012, June 21-23, 2012 and July 15-17, 2012 (collectively, "the HISTORICAL CELL-SITE INFORMATION").

In support of this application I state the following:

1. I am an Assistant United States Attorney in the Office of Loretta E. Lynch, United States Attorney for the Eastern District of New York. As such, I am a duly-authorized representative of a "governmental entity" under 18 U.S.C. § 2703(c) and (d) and, as such, am authorized to apply for Orders

authorizing the disclosure of the HISTORICAL CELL-SITE INFORMATION.

2. The Court is authorized to order the disclosure of the HISTORICAL CELL-SITE INFORMATION upon the government offering specific and articulable facts showing that there are reasonable grounds to believe that the information sought is relevant and material to an ongoing criminal investigation. 18 U.S.C. § 2703(d).

3. I have discussed this matter with a special agent of the Federal Bureau of Investigation (the "investigative agency"), who is involved in the investigation. Based upon my discussion with the agent, I believe that the information likely to be obtained is relevant to an ongoing criminal investigation as required by 18 U.S.C. § 2703(d). First, the investigative agency is conducting a criminal investigation into possible violations of federal criminal laws, including bank robbery in violation of 18 U.S.C. §§ 2113(a) and (d). Second, it is believed that an individual named Darryl Allen, and others known and unknown, have used the SUBJECT TELEPHONE in furtherance of the above offense. Third, HISTORICAL CELL-SITE INFORMATION will further the investigation by providing information as to the location of Darryl Allen, and specifically, whether or not he has been in the vicinity of the area where the bank robberies in question occurred.

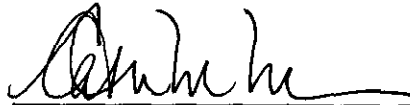
4. Based upon discussions with a special agent of the investigative agency, the government hereby sets forth the following specific and articulable facts showing that there are reasonable grounds to believe that the information sought is relevant and material to an ongoing criminal investigation. This investigative agency is currently investigating the May 18, 2012, June 22, 2012 and July 16, 2012 robberies of Chase Bank, located at 68-20 Rockaway Beach Boulevard, Queens, New York. On or about October 16, 2012, Darryl Allen was arrested by members of the New York City Police Department ("NYPD") for the May 18, 2012 and June 22, 2012 robberies and, on October 17, 2012, he was arraigned on a federal complaint, sworn to by a special agent with the Federal Bureau of Investigation ("FBI"), charging the defendant with those two bank robberies. A copy of the Complaint is attached and incorporated by reference. On or about November 7, 2012, a grand jury sitting in the United States District Court for the Eastern District of New York returned a two-count Indictment against Darryl Allen, charging him with bank robbery in violation of 18 U.S.C. §§ 2113(a) and (d). See United States v. Darryl Allen, No. 12-CR-693, Entry No. 6. A copy of the Indictment is attached and incorporated by reference. In addition, the NYPD Police Laboratory, Criminalistics Section received copies of the demand notes used by the robber during the May 18, 2012, June 22, 2012 and July 16, 2012 robberies. A

handwriting expert of this unit analyzed these notes and determined that they were "associated to a common source." Upon information and belief, "associated to a common source" refers to a connection between two or more questioned robbery demand notes which exhibit similarities in verbiage, letter formation, arrangement, alignment or other individual feature. At the time of his arrest in October 2012, Darryl Allen informed law enforcement officers that his cell phone number was the SUBJECT TELEPHONE. Further, at the time of the May 2012, June 2012 and July 2012 robberies, Darryl Allen was on parole and being supervised by a New York State parole officer. Law enforcement agents obtained Darryl Allen's cell phone number from his parole officer; that number is the SUBJECT TELEPHONE. HISTORICAL CELL-SITE INFORMATION will help pinpoint if Darryl Allen was in the vicinity of the Chase Bank located at 68-20 Rockaway Beach Boulevard, Queens New York at or near the time of the robberies.

5. Based upon the above proffer, the government requests that the Court issue Orders that provide, pursuant to 18 U.S.C. § 2703(c)(1) and (d), a directive to the service provider to supply within seven days the HISTORICAL CELL-SITE INFORMATION for the periods from May 17-19, 2012, June 21-23, 2012 and July 15-17, 2012.

6. No prior request for the relief set forth herein has been made except to the extent set forth above. The foregoing is affirmed under the penalties of perjury. See 28 U.S.C. § 1746.

Dated: Brooklyn, New York
April 10, 2013

A handwritten signature in black ink, appearing to read 'Catherine M. Mirabile', written over a horizontal line.

CATHERINE M. MIRABILE
Assistant United States Attorney
(718) 254-6055

JP:CMM

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

12 963

- - - - -X

UNITED STATES OF AMERICA

- against -

DARRYL ALLEN,

Defendant.

C O M P L A I N T

(T. 18 U.S.C. §§ 924(c)
and 2113 (a), (b), and
(d)).

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EASTERN DISTRICT OF NEW YORK, SS:

KEVIN PONDER, being duly sworn, deposes and states that he is a Special Agent with the Federal Bureau of Investigations ("FBI"), duly appointed according to law and acting as such.

Upon information and belief, on or about May 18, 2012 within the Eastern District of New York, the defendant DARRYL ALLEN did knowingly, intentionally take by force, violence and intimidation, from the person and presence of another, money exceeding \$1,000.00 belonging to and in the care, custody, control, management and possession of a bank or other financial institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.

(Title 18, United States Code, Section 2113(a) and (b)).

Upon information and belief, on or about June 22, 2012 within the Eastern District of New York, the defendant DARRYL ALLEN did knowingly, intentionally take by force, violence and

intimidation, from the person and presence of another, money belonging to and in the care, custody, control, management and possession of a bank or other financial institution, the deposits of which are insured by the Federal Deposit Insurance Corporation, and, in so doing, put in danger the life of a person by the use of a dangerous weapon.

(Title 18, United States Code, Section 2113(d)).

Upon information and belief, on or about June 22, 2012, within the Eastern District of New York, the defendant DARRYL ALLEN did knowingly and intentionally use and carry a firearm during and in relation to a crime of violence, to wit, a violation of 18 U.S.C. § 2113(d).

(Title 18, United States Code, Section 924(c)).

The source of your deponent's information and the grounds for his belief are as follows:¹

1. As further detailed below, on or about May 18, 2012, Chase Bank, located at 68-20 Rockaway Beach Boulevard, Queens, New York, was robbed by a man, identified as the defendant DARRYL ALLEN, of approximately \$8,099.00 in United States currency.

¹ Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause, I have not described all the relevant facts and circumstances of which I am aware.

2. Specifically, the defendant DARRYL ALLEN entered the bank at approximately 10:00 a.m. and approached a bank teller window. According to the bank teller, the defendant DARRYL ALLEN approached the teller and placed a piece of paper in her teller tray. On the paper was written "DON'T ALERT NO ONE, I HAVE A GUN." After reading the note, the defendant DARRYL ALLEN stated in substance "Do you understand?"; the defendant DARRYL ALLEN further stated "You better not touch the alarm until I walk out the door!" The bank teller then started to comply with the demand, and the defendant DARRYL ALLEN stated "More, more, more." The bank teller handed the defendant DARRYL ALLEN approximately \$8,099.00 in United States currency. The defendant DARRYL ALLEN then left the bank; as the defendant DARRYL ALLEN left the bank he dropped various items of clothing that he was wearing, including but not limited to a dark-colored baseball hat. Once the defendant DARRYL ALLEN left the bank, a bank employee called 911.

3. The bank teller described the defendant DARRYL ALLEN as a male black, in his late 30s, approximately 5'6" tall, approximately 190-200 pounds, with facial hair in patches on his cheeks, wearing a baseball hat, black sunglasses, blue jeans, a blue hooded sweatshirt with the hood down, and an orange and yellow reflective construction vest that was bulky in the stomach area. Another bank employee provided a similar description,

noting that the defendant was a black male, approximately 5'8" tall with a slim build.

4. As further detailed below, on or about June 22, 2012, Chase Bank, located at 68-20 Rockaway Beach Boulevard, Queens, New York, was robbed by a man, identified as the defendant DARRYL ALLEN, armed with a handgun, of approximately \$2,309.00 in United States currency.

5. Specifically, the defendant DARRYL ALLEN entered the bank at approximately 10:40 a.m. and walked up to the teller counter and yelled "Hey." According to the bank teller, the bank teller recognized the defendant DARRYL ALLEN as the individual who had robbed the bank using a demand note approximately one month ago. According to the bank teller, the defendant DARRYL ALLEN slid a note to the bank teller, who would not read it and attempted to walk away. On the note was written "I HAVE A GUN I WILL USE IT." The defendant DARRYL ALLEN yelled in substance "Give me the money" and stated "I have a gun." The defendant DARRYL ALLEN then displayed a black firearm, which he took from a black bag. The bank teller handed the defendant DARRYL ALLEN approximately \$2,309.00 in United States currency. The defendant DARRYL ALLEN then left the bank; as the defendant DARRYL ALLEN left the bank he dropped his maroon baseball hat. Once the defendant DARRYL ALLEN left the bank, the bank teller sounded the bank's hold-up alarm.

6. The bank teller described the defendant DARRYL ALLEN as a male black, 35-45 years old, approximately 5'5" tall, approximately 160 pounds, wearing a maroon baseball hat, maroon polo shirt, blue jeans, dark sunglasses, black bag, and scotch tape on his fingertips.

7. The Office of the Chief Medical Examiner ("OCME") received the two hats dropped by the defendant DARRYL ALLEN when he left the bank. A DNA analyst analyzed the these hats for DNA. The DNA analyst was able to obtain DNA samples from both hats. Those samples were placed in a database for a search, at which point they matched the defendant DARRYL ALLEN's DNA. The defendant DARRYL ALLEN's DNA is on file from a previous arrest. The defendant's criminal history records reflect that the defendant's date of birth is in 1964 and that the defendant is 5'4" and 150 pounds.

8. The New York City Police Department, Police Laboratory, Criminalistics Section received the pieces of paper the defendant DARRYL ALLEN gave the bank teller. A handwriting expert of this unit analyzed these notes and determined that they were "associated to a common source." "Associated to a common source" refers to a connection between two or more questioned robbery demand notes which exhibit similarities in verbiage, letter formation, arrangement, alignment or other individual feature.

9. Surveillance video was obtained from both May 18, 2012 and June 22, 2012 robberies. After reviewing the video, the person depicted in the video generally matches that of the defendant DARRYL ALLEN.

10. The deposits of Chase Bank are insured by the Federal Deposit Insurance Corporation.

WHEREFORE, your deponent respectfully requests that the defendant DARRYL ALLEN be dealt with according to law.



KEVIN PONDER
Special Agent
Federal Bureau of Investigation

Sworn to before me this
17th day of October 2012

THE HONORABLE ROANNE L. MANN
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

EK:CMM
F#:2012R01619

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- against -

DARRYL ALLEN,

Defendant.

THE GRAND JURY CHARGES:

COUNT ONE
(Bank Robbery)

1. On or about May 18, 2012, within the Eastern District of New York, the defendant DARRYL ALLEN did knowingly and intentionally take by force, violence and intimidation, from the person and presence of employees of Chase Bank, 68-20 Rockaway Beach Boulevard, Queens, New York, money in the care, custody, control, management and possession of such bank, the deposits of which were then and there insured by the Federal Deposit Insurance Corporation.

(Title 18, United States Code, Sections 2113(a) and 3551 et seq.)

INDICTMENT
CR 12-0693

(T. 18, U.S.C., §§
981(a)(1)(C), 2113(a),
2113(d) and
3551 et seq.; T. 21,
U.S.C., § 853(p);
T. 28, U.S.C.,
§ 2461(c))

GLASSER, J.

FILED
CLERK
2012 NOV -7 PM 1:18
U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

COUNT TWO
(Bank Robbery)

2. On or about June 22, 2012, within the Eastern District of New York, the defendant DARRYL ALLEN did knowingly and intentionally take by force, violence and intimidation, from the person and presence of employees of Chase Bank, 68-20 Rockaway Boulevard, Queens, New York, money in the care, custody, control, management and possession of such bank, the deposits of which were then and there insured by the Federal Deposit Insurance Corporation, and in committing such offense did assault and put in jeopardy the lives of persons inside such bank by the use of a dangerous weapon and device, to wit: an object that appeared to be a firearm.

(Title 18, United States Code, Sections 2113(a), 2113(d) and 3551 et seq.)

CRIMINAL FORFEITURE ALLEGATION
AS TO COUNTS ONE AND TWO

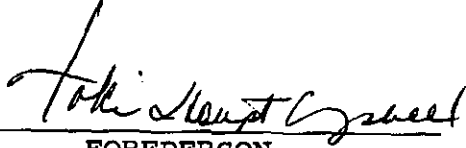
3. The United States hereby gives notice to the defendant that, upon his conviction of either of the offenses charged in Counts One or Two, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which require the forfeiture of any property constituting or derived from proceeds obtained directly or indirectly as a result of such offenses.

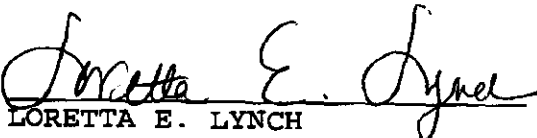
4. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:
- a. cannot be located upon the exercise of due diligence;
 - b. has been transferred or sold to, or deposited with, a third party;
 - c. has been placed beyond the jurisdiction of the court;
 - d. has been substantially diminished in value;
- or
- e. has been commingled with other property which cannot be divided without difficulty;
- it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any

other property of the defendant up to the value of the
forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Section 981(a)(1)(C);
Title 21, United States Code, Section 853(p); Title 28, United
States Code, Section 2461(c))

A TRUE BILL


FOREPERSON


LORETTA E. LYNCH
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT

EASTERN District of NEW YORK

CRIMINAL DIVISION

THE UNITED STATES OF AMERICA

- against -

DARRYL ALLEN

Defendant.

INDICTMENT

(T. 18, U.S.C., §§ 981(a)(1)(C), 2113(a), 2113(d) and 3551 et seq.;
T. 21, U.S.C., § 853(p); T. 28, U.S.C., § 2461(c))

A true bill.

John A. ...
Foreman

Filed in open court this _____ day,

of _____ A.D. 20 _____

Clerk

Bail, \$ _____

Catherine M. Mirabile, Assistant U.S. Attorney (718-254-6055)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

13 MISC 312

- - - - - X
IN THE MATTER OF AN APPLICATION :
OF THE UNITED STATES OF AMERICA : ORDER
FOR AN ORDER AUTHORIZING THE RELEASE : OF AUTHORIZATION
OF HISTORICAL CELL-SITE INFORMATION :
- - - - - X


This matter having come before the Court pursuant to an application by Assistant United States Attorney Catherine M. Mirabile, an attorney for the Government as defined by Rule 1(b)(1) of the Federal Rules of Criminal Procedure and a duly-authorized representative of a "governmental entity" under 18 U.S.C. § 2703(c) and (d), requesting Orders pursuant to 18 U.S.C. § 2703(c)(1) and (d), directing that within seven days Metro PCS (the "service provider") disclose recorded information identifying the base station towers and sectors that received transmissions from 347-666-8140, a telephone issued by the service provider and used by an individual named Darryl Allen (the "SUBJECT TELEPHONE"), at the beginning and the end of calls or text message transmissions, and the mobile switching center serving the SUBJECT TELEPHONE during any calls or text message transmissions, for the periods from May 17-19, 2012, June 21-23, 2012 and July 15-17, 2012 (collectively, "the HISTORICAL CELL-SITE INFORMATION");

UPON REVIEW OF THE APPLICATION, THE COURT HEREBY
FINDS THAT:

Pursuant to 18 U.S.C. § 2703(c)(1) and (d), the government has offered specific and articulable facts showing that there are reasonable grounds to believe that the HISTORICAL CELL-SITE INFORMATION is relevant and material to an ongoing criminal investigation into possible violations of federal criminal laws, including bank robbery in violation of 18 U.S.C. §§ 2113(a) and (3), being conducted by the Federal Bureau of Investigation (the "investigative agency"); now therefore,

IT IS HEREBY ORDERED, pursuant to 18 U.S.C. § 2703(c)(1) and (d), that the service provider shall supply to the investigative agency within seven days the HISTORICAL CELL-SITE INFORMATION for the periods from May 17-19, 2012, June 21-23, 2012, and July 15-17, 2012;

Dated: Brooklyn, New York
April 10, 2013


HONORABLE ROBERT M. LEVY
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

13 MSC 312

- - - - - X
IN THE MATTER OF AN APPLICATION :
OF THE UNITED STATES OF AMERICA : ORDER TO
FOR AN ORDER AUTHORIZING THE RELEASE : SERVICE PROVIDER
OF HISTORICAL CELL-SITE INFORMATION :
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WHEREAS this Court has, upon the application of the
United States of America, entered an Order pursuant to 18 U.S.C.
§ 2703(c)(1) and (d), directing that within seven days Metro PCS
(the "service provider") disclose recorded information
identifying the base station towers and sectors that received

from 347-666-8140, a telephone issued by the



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

13 MISC 312

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IN THE MATTER OF AN APPLICATION :
OF THE UNITED STATES OF AMERICA : ORDER TO
FOR AN ORDER AUTHORIZING THE RELEASE : SERVICE PROVIDER
OF HISTORICAL CELL-SITE INFORMATION :
- - - - - X


WHEREAS this Court has, upon the application of the United States of America, entered an Order pursuant to 18 U.S.C. § 2703(c)(1) and (d), directing that within seven days Metro PCS (the "service provider") disclose recorded information identifying the base station towers and sectors that received transmissions from 347-666-8140, a telephone issued by the service provider and used by an individual named Darryl Allen (the "SUBJECT TELEPHONE"), at the beginning and the end of calls or text message transmissions, and the mobile switching center serving the SUBJECT TELEPHONE during any calls or text message transmissions, for the periods from May 17-19, 2012, June 21-23, 2012, and July 15-17, 2012 (collectively, "the HISTORICAL CELL-SITE INFORMATION")

NOW THEREFORE, IT IS HEREBY:

ORDERED, pursuant to 18 U.S.C. § 2703(c)(1) and (d), that the service provider shall supply within seven days the

HISTORICAL CELL-SITE INFORMATION for the period from May 17-19, 2012, June 21-23, 2012, and July 15-17, 2012.

Dated: Brooklyn, New York
April 10, 2013



HONORABLE ROBERT M. LEVY
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK